



MODBURY NEIGHBOURHOOD PLAN

Making a balanced, vibrant and healthy place to live.

MODBURY NEIGHBOURHOOD PLAN

MODBURY NEIGHBOURHOOD PLAN STATEMENT OF BASIC CONDITIONS

MARCH 2020

Submitted by the qualifying body:

Modbury Parish Council

www.modburypc.co.uk

for:

Modbury Neighbourhood Plan

www.modburynpg.co.uk

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1. LEGAL REQUIREMENTS

- 1.1. This statement has been prepared by the Modbury Neighbourhood Plan Group on behalf of Modbury Parish Council. It accompanies the submission to South Hams District Council of the Modbury Neighbourhood Development Plan under section 15 of the Neighbourhood Planning Regulations 2012.
- 1.2. The Neighbourhood Plan is submitted by Modbury Parish Council, the appropriate qualifying body. It covers the area designated by South Hams District Council on 24th February 2015. Details of the application and its approval are available on the district council's website at <https://www.neighbourhoodplanning.swdevon.gov.uk/modbury>.
- 1.3. The plan has been prepared on behalf of the parish council by a steering group and consultants. The assistance of the district council is also gratefully acknowledged.
- 1.4. It relates to planning matters (the use and development of land) in the designated neighbourhood area and covers the period from 2014-2034, a period chosen to tie in with the development plan for the South Hams - the Plymouth and South West Devon Joint Local Plan (the JLP).
- 1.5. It does not contain policies relating to excluded development – county matters, nationally significant infrastructure or other matters – as laid out in the Regulations.
- 1.6. The neighbourhood plan area is shown at **Appendix 1**. It includes the whole of Modbury parish.
- 1.7. This statement addresses each of the four 'basic conditions' required by the Regulations and explains how the neighbourhood plan meets the requirement of paragraph 8 of schedule 4B of the 1990 Town and Country Planning Act.
- 1.8. The Regulations state that the neighbourhood plan will have met the basic conditions if it:
 - a) has regard to national policies and advice contained in guidance issued by the Secretary of State;
 - b) contributes to the achievement of sustainable development;
 - c) is in general conformity with the strategic policies of the development plan for the area; and
 - d) is compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

2. LOCAL CONTEXT AND THE NEED FOR A PLAN

- 2.1. Modbury is a small market town lying among the rolling hills of the south Devon countryside. The steep streets and tightly knit buildings of the town centre bear witness to its long history.
- 2.2. Today Modbury serves as the local centre for a large parish and the surrounding rural area. It is a lively town with a number of shops, pubs and cafes, a primary school, a meeting hall, churches and a good number of local clubs and associations.
- 2.3. The people of Modbury take pride in their home. They want to see it flourish and prosper, to retain and care for the best of its heritage, and to build a sound basis for

future generations to feel and act the same way. The neighbourhood plan aims to help make sure that Modbury remains a balanced, vibrant and healthy place to live, both now and in the future.

3. PLAN PROCESS AND CONSULTATION

- 3.1. The plan process began early in 2015, initiated by Modbury Parish Council. A steering group was established, including representatives of the parish council and volunteers from the local community.
- 3.2. Widespread public consultation has been carried out to gather local views and opinions and engage people in the process. This has included events, a stall at the Modbury May Fair, regular open meetings, workshops and questionnaire surveys. Working groups have been set up to consider a variety of topics and priorities.
- 3.3. A Modbury neighbourhood plan website has been developed and can be found at www.modburynpg.co.uk. Regularly updated, it sets out details of the plan, progress made and encourages local participation. The Statement of Consultation describes in more detail how the community has been involved.
- 3.4. The plan is now submitted to South Hams District Council, in accordance with Part 5, Regulation 15 of the Neighbourhood Planning (General) Regulations 2012. Also submitted are associated documents including a Statement of Consultation, Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA), a Monitoring Report, a schedule of evidence and a Response Report showing what comments were received upon and what changes have been made to the consultation draft version of the plan.
- 3.5. The district council will arrange for the plan's examination by an independent examiner who will decide whether it meets the basic conditions. If these conditions are considered to have been met the district council will hold a local referendum on the plan. So long as more than 50% of those voting in the referendum support the plan it will be declared "duly made" and will become part of the development plan and statutory planning decision making framework for the parish.

4. VISION AND OBJECTIVES

- 4.1. The vision for Modbury is as follows:

Modbury will seek to embrace the future without compromising its character as an historic market town. It will support a vibrant community living in a safe, sustainable environment. It will be a place where development is in keeping with the existing built form and surrounding landscape and managed to meet the needs of residents and visitors.

- 4.2. The local community objectives, in summary, are to:
 - a) maintain and enhance Modbury's historic character, giving high priority to the Modbury Village Design Statement, to ensure that all new development is harmonious with the existing built forms which characterise the town;
 - b) enhance the vibrancy of the town's commercial heart and support increased local employment;
 - c) deliver new homes to address needs, with a range of sizes, types and tenures;

- d) ensure sufficient off-street parking in all new developments;
- e) ensure high standards of energy efficiency and sustainable construction in all new developments;
- f) promote a local community renewable energy scheme;
- g) improve pedestrian and cycle routes to reduce reliance on the car, and in particular improve pedestrian safety between Palm Cross and the town centre;
- h) protect and provide public spaces of all kinds – community spaces, green spaces and play spaces – and provide a town square;
- i) support a study for a relief road for Modbury, respecting the AONB; and
- j) support a study to identify how to improve traffic flow and safety.

5. POLICIES AND PROPOSALS

5.1. The plan's policies are laid out under the following headings:

- 1. Development, Design and Construction
- 2. Development Sites
- 3. History and Heritage
- 4. Housing and Development
- 5. Road Safety and Transport
- 6. Employment and Business
- 7. Communication
- 8. Services and Facilities
- 9. Environment and Sustainability

6. SUBMISSION DOCUMENTS

6.1. In addition to this Basic Conditions Statement, the following documents have been prepared to support the Modbury Neighbourhood Plan.

- a) **The Neighbourhood Plan** – the neighbourhood development plan for the designated area containing policies to guide future development in the area.
- b) **The Statement of Consultation** – setting out the community engagement and consultation undertaken from the outset of the process.
- c) **The Strategic Environmental Impact Assessment (SEA)** – setting out the likely significant environmental and socio-economic effects of the Modbury Neighbourhood Plan and alternatives;
- d) **The Habitats Regulations Assessment (HRA) Appropriate Assessment** – setting out the implications of the Modbury Neighbourhood Plan for European sites;
- e) **The Monitoring Framework** – outlining a framework of performance indicators against which the effectiveness of the plan's policies can be assessed.

6.2. South Hams District Council will now arrange for:

- a) 6 weeks for comment on the submitted plan;
- b) the plan's independent examination; and (providing the plan meets the basic conditions set out at para 1.8 above)

- c) a public referendum on the plan.

7. COMPLIANCE STATEMENT

7.1. The Modbury Neighbourhood Plan is being submitted in accordance with Part 5, Regulation 15 of the Neighbourhood Planning (General) Regulations 2012, which sets out the requirements for the submission of a neighbourhood plan, as follows:

Plan proposals: Where a qualifying body submits a plan proposal to the local planning authority, it must include –

- (α) a map or statement which identifies the area to which the proposed neighbourhood development plan relates;
- (β) a consultation statement;
- (γ) the proposed neighbourhood development plan; and
- (δ) a statement explaining how the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act

7.2. Part (a) is provided at **Appendix 1** to this statement and includes the map and a hyperlink to the application and designation notice. Parts (b) and (c) are submitted alongside the plan. The requirements of part (d) are that the plan meets the basic conditions which are (as set out at para 1.8 above), that:

- the plan has regard to national policies and advice contained in guidance issued by the Secretary of State.
- the plan contributes to the achievement of sustainable development.
- the plan is in general conformity with the strategic policies contained in the development plan for the area.
- the plan does not breach and is compatible with EU obligations.

7.3. The following sections of this statement explain how the Modbury Neighbourhood Plan meets those requirements.

8. REGARD TO NATIONAL POLICIES AND GUIDANCE

8.1. The National Planning Policy Framework (NPPF) was published in 2012 and revised in 2018. It provides a framework for planning for sustainable development, including by local communities through the production of neighbourhood plans.

8.2. The Modbury Neighbourhood Plan aims to focus on those planning matters which have been identified as priority concerns by the local community. It seeks to neither hinder nor duplicate policies in existing plans, which should be read alongside the neighbourhood plan. Both independently of one another and in combination the plans meet the requirements of the NPPF.

8.3. **Appendix 3** sets out the way that the policies of the plan conform with the NPPF.

9. ACHIEVEMENT OF SUSTAINABLE DEVELOPMENT

9.1. The plan's objectives are set squarely within the bounds of sustainable development. It provides for

- a) economic sustainability through its provisions for development, particularly for business developments, town centre shopping developments and

enhancements in electronic and broadband communications infrastructure

- b) social sustainability through its proposals for a mix of housing, including affordable homes and a Community Land Trust, and support for maintenance and development of community infrastructure; and
- c) environmental sustainability through its promotion of sustainable construction and care of local heritage, green spaces and natural resources.

9.2. The Strategic Environmental Assessment and Habitats Regulations Assessment, submitted alongside the plan, give more detail.

10. **CONFORMITY WITH STRATEGIC POLICIES OF THE DEVELOPMENT PLAN**

10.1. The development plan for the area is the Plymouth and South West Devon Joint Local Plan (the JLP), adopted in March 2019. A Supplementary Planning Document (SPD) provides further detail.

10.2. The Modbury Neighbourhood Plan has been prepared in co-operation with the district council. It generally conforms with and does not undermine or constrain the strategic content of the JLP inasmuch as it relates to Modbury.

10.3. The plan includes a development site proposal which is made in substitution for a site proposed in the JLP. Paragraph 44 of the National Planning Policy Guidance (NPPG) sets out the parameters for such measures, and these are more fully dealt with in **Appendix 2** of this document.

10.4. In summary, the district council has advised that it would not object to such a substitution as long as:-

- a) the substitution provides an equal number of dwelling houses (40) to that allocated at Penn Park in the JLP;
- b) the plan provides fully evidenced reasoning for the removal of the Penn Park allocation;
- c) the plan provides fully evidenced reasoning regarding the technical and highway feasibility of the Ayleston Park proposal being developed for the number of dwelling houses set out in a); and
- d) the plan provides fully evidenced reasoning that the Ayleston Park proposal can meet planning, environmental and landscape requirements.

10.5. Furthermore, the district council has advised that, in light of the ethos underpinning neighbourhood planning legislation, to empower local communities to make local decisions, the allocation of a site for 40 dwellings does not amount to a strategic allocation and that, subject to the conditions set out above being met, the council would not object to any substitution site proposed. The position is described more fully at **Appendix 2**.

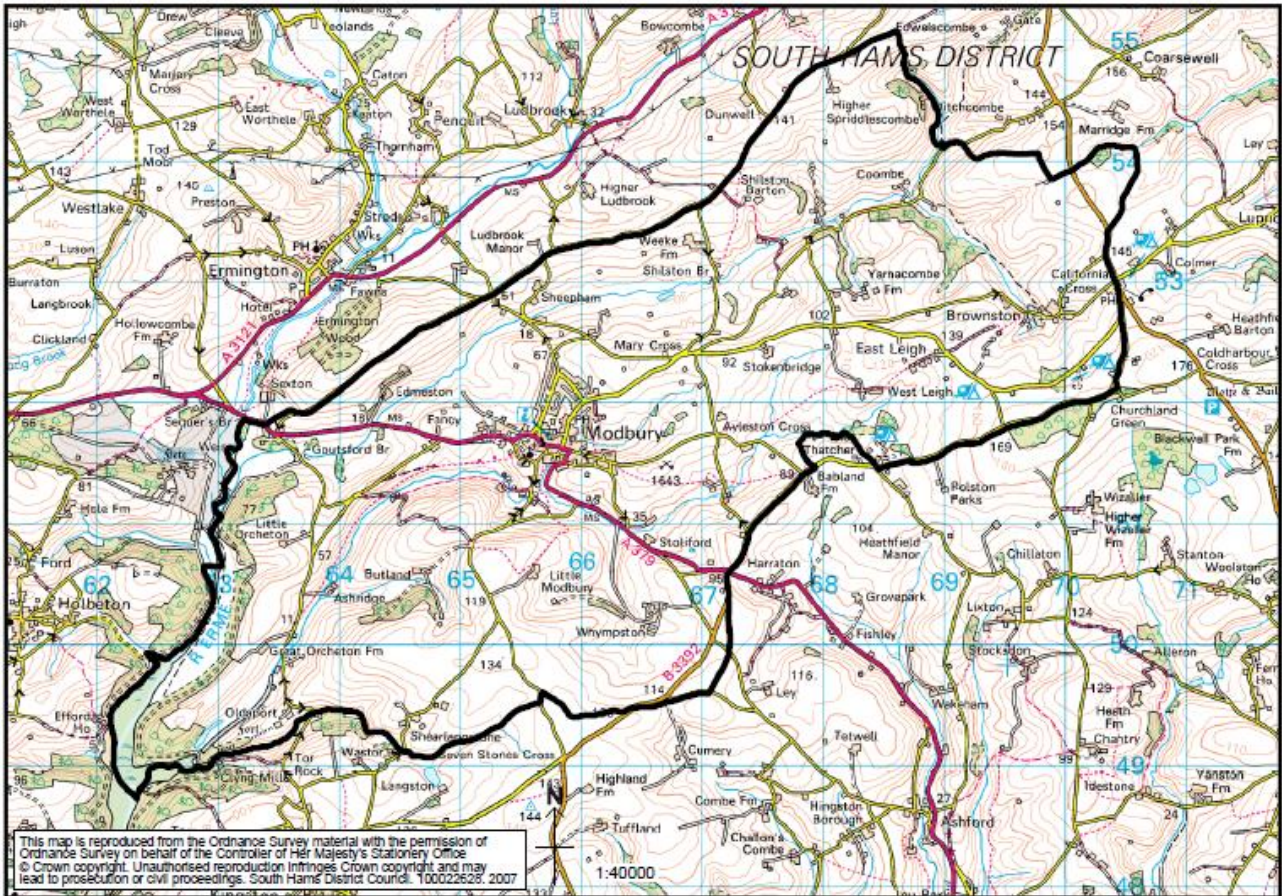
10.6. More detail about the way in which the plan's policies generally conform with the strategic content of the development plan policies is set out in **Appendix 3** (along with details of conformity with the NPPF).

11. COMPATIBILITY WITH EU LEGISLATION

- 11.1. The Modbury Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998. The consultation process has aimed to include all sections of the community, including hard-to-reach and under-represented groups such as young people and the disabled, with local events in accessible locations and an effective digital presence.
- 11.2. Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Appropriate Assessment have been carried out and are submitted alongside the plan.

APPENDIX 1 – MODBURY NEIGHBOURHOOD PLAN AREA DESIGNATION

1. The plan area shown on the map below is that confirmed on 24th February 2015 by South Hams District Council.



2. The application for and notice of designation of the Modbury Neighbourhood Plan area are at <https://www.neighbourhoodplanning.swdevon.gov.uk/modbury>.

APPENDIX 2 – PROVISIONS FOR A SITE SUBSTITUTION AND SHDC'S POSITION

1. Paragraph 44 of the National Planning Policy Guidance (NPPG) which covers Neighbourhood Planning (<https://www.gov.uk/government/publications/national-planning-policy-framework--2>) amongst other things, states:-

“A neighbourhood plan can also propose allocating alternative sites to those in a local plan (or spatial development strategy), where alternative proposals for inclusion in the neighbourhood plan are not strategic, but a qualifying body should discuss with the local planning authority why it considers the allocations set out in the strategic policies are no longer appropriate.

The resulting draft neighbourhood plan must meet the basic conditions if it is to proceed. National planning policy states that it should support the strategic development needs set out in strategic policies for the area, plan positively to support local development and should not promote less development than set out in the strategic policies (see [paragraph 13](#) and [paragraph 29](#) of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the local plan or spatial development strategy.

Should there be a conflict between a policy in a neighbourhood plan and a policy in a local plan or spatial development strategy, [section 38\(5\) of the Planning and Compulsory Purchase Act 2004](#) requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.”

2. The Modbury Neighbourhood Plan Group approached South Hams District Council expressing their wish to substitute a site allocation at Ayleston Park for the Penn Park JLP site allocation. In the light of the NPPG guidance the Council advised the Group that it would not object to such a substitution as long as:-
 - ① The substitution provides an equal number of dwelling houses (40) to that allocated at Penn Park in the JLP.
 - ② The plan provides fully evidenced reasoning for the removal of the Penn Park allocation.
 - ③ The plan provides fully evidenced reasoning regarding the technical and highway feasibility of the Ayleston Park proposal being developed for the number of dwelling houses set out in 1).
 - ④ The plan provides fully evidenced reasoning that the Ayleston Park proposal can meet planning/environmental and landscape requirements.
3. In terms of the question of whether the Penn Park site is a JLP strategic allocation. The District Council consider that in the light of the ethos underpinning the Neighbourhood Planning legislation, to empower local communities to make local decisions, the allocation of a site for 40 dwellings does not amount to a strategic allocation and therefore, subject to the conditions set out above being met, the Council would not object to any substitution site proposed. In effect, the District Council considers that the housing calculations upon which the JLP is based would be unaffected if a like for like site substitution were made.

**APPENDIX 3 – MODBURY NEIGHBOURHOOD PLAN POLICIES'
REGARD TO THE NATIONAL PLANNING POLICY FRAMEWORK (NPPF) AND
GENERAL CONFORMITY WITH STRATEGIC POLICIES OF THE DEVELOPMENT PLAN**

1. The table below maps the policies of the Modbury Neighbourhood Plan, their regard for the National Planning Policy Framework (NPPF) and their general conformity with the strategic policies of the development plan for the area.

Modbury Neighbourhood Plan	Regard to NPPF	General conformity with local strategic policies
Overall	<p>The plan has regard to the NPPF and particularly to the objectives for neighbourhood plans and in the achievement of sustainable development.</p> <p>It sets out a vision for the future and contains policies which respond to priority concerns expressed by the local community.</p> <p>It sets out a strategy that provides for sustainable development within its area.</p> <p>Its policies align with the NPPF in general and in particular ways as shown below.</p>	<p>The plan is in general conformity with the strategic policies of the development plan and in particular those contained in the South West Devon Joint Local Plan (the JLP) adopted in March 2019.</p> <p>JLP policies TTV24 and TTV25 are of key relevance.</p>
MNP1: Location, Scale and Character of Development	<p>The policy has regard to NPPF part 2 in aiming to facilitate sustainable development, part 5 in helping to deliver sufficient homes, part 6 in helping to build a prosperous rural economy, part 11 by making effective use of land, and parts 15 and 16 by aiming to conserve and enhance the landscape and historic environment.</p>	<p>The policy generally conforms with JLP policies SPT1, SPT2, SPT3, SPT12, TTV1, TTV2, TTV24, TTV25 and TTV26.</p>
MNP2: Design and Construction	<p>The policy has regard to NPPF parts 12 and 14 in aiming to ensure well designed places and helping to meet the challenges of climate change and flooding.</p>	<p>The policy generally conforms with JLP policies SPT1, SPT2, DEV1, DEV2, DEV10, DEV20, DEV32, DEV33 and DEV35.</p>
MNP3: Development Site Proposals	<p>The policy has regard to NPPF part 2 in aiming to facilitate sustainable development, part 5 in helping to deliver sufficient homes, part 6 in helping to build a prosperous rural economy, part 11 by making effective use of land, and parts 15 and 16 by aiming to conserve and enhance the landscape and historic environment.</p>	<p>The policy generally conforms with JLP policies SPT1, SPT2, SPT3, TTV2, TTV24, TTV27, DEV8, DEV9 and DEV10.</p>
MNP4: Heritage and	<p>The policy has regard to the NPPF part 16 in</p>	<p>The policy generally</p>

Conservation	aiming to conserve and provide for the enjoyment of historic assets.	conforms with JLP policies SPT11, DEV20 and DEV21.
MNP5: Housing Development	The policy has regard to NPPF part 2 in aiming to facilitate sustainable development, part 5 in helping to deliver sufficient homes, part 8 by promoting healthy and safe communities, and part 11 by making effective use of land.	The policy generally conforms with JLP policies SPT1, SPT2, SPT3, TTV2, TTV24, TTV25, TTV27, DEV8, DEV9, DEV10 and DEV30.
MNP6: Principal Residence Requirement	The policy has regard to NPPF part 2 in aiming to facilitate sustainable development, part 6 by helping to build a strong, competitive local economy, and part 8 by promoting healthy and safe communities.	The policy generally conforms with JLP policies SPT1, SPT2, TTV2, TTV25, DEV32 and DEV33.
MNP7: Safe Movement and Transport	The policy has regard to NPPF parts 8 and 9 in promoting sustainable transport and opportunities for walking.	The policy generally conforms with JLP policies SPT1, SPT2, SPT9, SPT10 and DEV29.
MNP8: Business Development	The policy has regard to NPPF part 6 in seeking to support a prosperous rural economy.	The policy generally conforms with JLP policies SPT1, SPT2, SPT4, SPT5, TTV2, DEV14, DEV15 and DEV19.
MNP9: Town Centre Shopping	The policy has regard to NPPF part 7 in defining the extent of the town centre primary shopping area, making clear the range of uses permitted there.	The policy generally conforms with JLP policies SPT1, SPT2, SPT5, SPT6, DEV16, DEV17 and DEV18.
MNP10: Broadband and Communications Infrastructure	The policy has regard to NPPF part 10 in supporting high quality communications infrastructure for sustainable economic growth.	The policy generally conforms with JLP policies SPT2 and SPT8.
MNP11: Community Facilities and Infrastructure	The policy has regard to NPPF part 8 in promoting a healthy and safe community and safeguarding and enhancing local services and facilities.	The policy generally conforms with JLP policies SPT1, SPT2, SPT6, DEV3, DEV4, DEV5, DEV18, DEV29, DEV30 and DEL1..
MNP12: Protecting the Landscape	The policy has regard to NPPF part 15 in aiming to protect and enhance valued landscapes, allocating for development land with the least environmental and amenity value.	The policy generally conforms with JLP policies SPT1, SPT12, DEV20, DEV23, DEV25, DEV27 and DEV28.
MNP13: Supporting	The policy has regard to NPPF part 15 in	The policy generally

Biodiversity	aiming to minimise impacts on and provide net gains for biodiversity, establishing coherent ecological networks resilient to current and future pressures.	conforms with JLP policies SPT1, SPT2, SPT12, SPT14, DEV2, DEV26 and DEV28.
MNP14: Local Green Spaces and Public Open Space	The policy has regard to NPPF part 8 in promoting a healthy community and protecting green areas of particular local importance.	The policy generally conforms with JLP policies SPT1, DEV1 and DEV27.